

CHAPTER 120

SCHOOL DISTRICT GOVERNMENT

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Cross-reference: See definitions in s. 115.001.

SUBCHAPTER I

COMMON AND UNION HIGH SCHOOL DISTRICTS

120.001 Applicability. This subchapter applies to common and union high school districts.

120.01 Number of school board members. In common or union high school districts, school boards shall be composed of the following number of members:

(1) A common school district operating elementary grades or a union high school district shall have 3 school board members, except that if such school district is coterminous with a town or has a population of 500 or more it may have 5 school board members.

(2) A common school district operating elementary and high school grades may have 3, 5, 7 or 9 school board members.

(3) A common or union high school district may have not exceeding 11 school board members if a plan of apportionment is established under s. 120.02 (2).

120.02 Method of changing number, apportionment or election of school board members. (1) **CHANGE IN NUMBER OF SCHOOL BOARD MEMBERS.** If, at least 30 days prior to the day of the annual school district meeting, in a common or union high school district, or at least 45 days prior to the day of the election of school board members in a unified school district, a petition conforming to the requirements of s. 8.40 requesting a change in the number of school board members is filed with the school district clerk the clerk shall incorporate in the notice of the annual meeting or election a statement that at the meeting or election the question of changing the number of school board members to the number requested in the petition will be voted upon. The petition shall be signed by not less than 100 electors residing in the school district, except that in school districts which contain, in whole or in part, a city of the 2nd or 3rd class in which one or more electors of the school district reside, the petition shall be signed by not less than 500 electors residing in the school district. If, at the meeting or election of school board members, a resolution based on a petition requesting a change in the number of school board members is adopted by a majority vote, school board members shall be elected at the next school board election and thereafter in accordance with sub. (3).

(2) **PLAN OF APPORTIONMENT.** (a) If, at least 30 days prior to the day of the annual meeting, in a common or union high school district, or at least 45 days prior to the day of the election of school board members in a unified school district, a petition conforming

to the requirements of s. 8.40 requesting the establishment of a plan of apportionment of school board members is filed with the school district clerk the clerk shall incorporate notice of receipt of such petition in the notice of the annual meeting or election. The petition shall specify the proposed plan of apportionment of school board members among the cities, towns and villages or parts thereof within the school district and set the total number of school board members at not more than 11. The petition shall be signed by not less than 100 electors residing in the school district, except that in school districts which contain, in whole or in part, a city of the 2nd or 3rd class in which one or more electors of the school district reside, the petition shall be signed by not less than 500 electors residing in the school district. If a majority vote of the annual meeting or election approves the plan set forth in the petition, the plan shall remain in operation until revised by the same procedure. School board members elected under this subsection shall be elected by a vote of the electors of the entire school district in accordance with the plan prepared under sub. (3).

(b) An order of school district reorganization issued under s. 117.08, 117.09 or 117.27 may contain such a plan of apportionment of school board members, and the determination of terms of school board members shall be as provided in sub. (3).

(3) **ELECTION PLAN.** (a) If a common, unified or union high school district votes to increase the number of school board members, the school district clerk shall promulgate, before the next election of school board members, a plan providing:

1. The number of school board members to be elected each year, distributing the number as evenly as possible.

2. The total number of positions to be filled at the first election for 1, 2 or 3 years.

3. An allocation of the number of candidates to be elected to 1, 2 and 3 year terms at the first election, the 3-year terms to be filled by the appropriate number of candidates receiving the highest number of votes, the 2-year terms to be filled by the appropriate number of candidates receiving the next highest number of votes and the 1-year terms to be filled by the appropriate number of candidates receiving the next highest number of votes.

(b) In case of a tie vote in the election of school board members, the election shall be determined by lot and the loser by lot shall become next in order of election if additional positions on the school board are to be filled.

(c) The tenure of school board members whose terms have not expired shall not be affected.

(d) If a school board in its order changing a school district type under s. 117.27 designates a school board of 5, 7 or 9 members, it shall prepare a plan for allocating terms in accordance with this subsection.

(e) Whenever a school district with more than 3 school board members votes to reduce the number of school board members, one less school board member shall be elected annually thereafter until the school board is reduced to the approved number of members, but not less than one member shall be elected each year.

(4) ELECTION TO NUMBERED SEATS. If, at least 30 days prior to the day of the annual meeting, in a common or union high school district, or at least 45 days prior to the day of the election of school board members in a unified school district, a petition conforming to the requirements of s. 8.40 which sets forth a plan for the assignment of a number to each seat on the school board is filed with the school district clerk, the school district clerk shall incorporate notice of receipt of such petition in the notice of the annual meeting or election required under s. 120.06 (8) (c). The petition shall be signed by not less than 100 electors residing in the school district, except that in school districts which contain, in whole or in part, a city of the 2nd or 3rd class in which one or more electors of the school district reside, the petition shall be signed by not less than 500 electors residing in the school district. If a majority vote of the annual meeting or election approves the plan set forth in the petition, the plan shall remain in operation until revised by the same procedure.

History: 1975 c. 138, 199; 1983 a. 27; 1987 a. 391; 1989 a. 114, 192; 2001 a. 54.

120.05 School board officials. (1) (a) The members of a school board shall be the officers of a school district.

(b) In the case of a 3–member school board, the school district president, treasurer and clerk shall constitute the school board. At the first election of a 3–member school board, the clerk shall be elected for a one–year term, the treasurer for a 2–year term and the president for a 3–year term.

(c) In the case of a school board with more than 3 members, the school board shall annually elect a school district president, vice president, treasurer and clerk from among its members at a school board meeting held on or within 30 days after the 4th Monday in April.

(d) A school district officer shall be a resident of the school district in which the officer serves. A school district officer who represents an apportioned area pursuant to a plan adopted under s. 120.02 (2) shall be a resident of the apportioned area for which he or she is elected or appointed at the time the officer takes the oath of office. If a school district officer who represents an apportioned area ceases to be a resident of that area after beginning his or her term but continues to be a resident of the school district, the officer may continue to serve for the balance of the term for which he or she was elected or appointed.

(2) If the territory of a common school district and a union high school district is identical, the school board of the common school district shall constitute the school board of the union high school district.

(3) If the school district president, vice president, treasurer or clerk of any school board is unable to discharge the duties of the office due to disability or absence, the school board may appoint a person to discharge the duties of such person until the disability or absence no longer exists. In the case of a 3–member school board the appointee shall be an elector of the school district. In the case of a larger school board the appointee for the president shall be the vice president and the appointee for the other officers shall be another school board member. The school board shall determine the compensation of such appointees. A person acting as school district clerk or school district treasurer shall have the powers of a deputy and shall take and file an official bond covering the person's acts unless the bond of such officer includes a bond for the officer's deputy. This subsection does not apply to vacancies caused by absence from the school district for a period exceeding 60 days covered by s. 17.03 (4).

History: 1975 c. 138 s. 13; 1975 c. 199; Stats. 1975 s. 120.05; 1979 c. 173; 1985 a. 218, 304.

The offices of president of a common school district board and chairperson of a town board within the district and the offices of school board member and town clerk are probably compatible. 74 Atty. Gen. 50.

120.06 Election of school board members. In a common or union high school district:

(1) The school board shall be elected at the spring election.

(2) (a) Except as provided under par. (b), school board members shall be electors of the school district and shall be elected at large by a plurality vote of the electors of the school district.

(b) School board members elected to a school board in an election under s. 117.22 (2) (bm) shall reside in the territory of the school district created by the reorganization.

(3) The regular terms of school board members shall be 3 years, except as otherwise provided under s. 17.26.

(4) School board members elected for regular or unexpired terms shall take office, provided they have taken and filed the official oath, on the 4th Monday in April.

(6) (a) In a school district which does not contain territory lying within a 2nd class city, the school board may, or in a common or union high school district the school board or annual meeting may, by resolution adopted not later than the last Tuesday in November preceding an election for members of the school board, require that nomination papers be filed by all candidates seeking election to the school board. If the school board or annual meeting has previously required the filing of nomination papers in such a school district, the body imposing the requirement may, by similar resolution adopted not later than the last Tuesday in November preceding an election for members of the school board, rescind the requirement.

(b) 1. No later than the 4th Tuesday in November prior to the spring election, the school district clerk shall publish a type A notice of the school district election under s. 10.01 (2) (a).

2. Except as authorized in this paragraph, no later than 5 p.m. on the first Tuesday in January prior to the spring election, or on the next day if Tuesday is a holiday, any qualified elector of the school district may file a sworn declaration of candidacy with the school district clerk in the form provided in s. 8.21 at the place specified in the notice. If the school district contains territory lying within a 2nd class city, or if the school board or annual meeting requires nomination papers under par. (a), any qualified elector of the school district who desires to be a candidate shall in addition file nomination papers in the form prescribed under s. 8.10 (2) and (3) with the school district clerk at the place specified in the notice.

3. If an incumbent fails to file a declaration of candidacy, and nomination papers, where required, within the time prescribed by this paragraph, all candidates for the office held by the incumbent, other than the incumbent, may file a declaration of candidacy and nomination papers, where required, no later than 72 hours after the latest time prescribed in this paragraph. No extension of the time for filing a declaration of candidacy or nomination papers applies if the incumbent files written notification with the school district clerk, no later than 5 p.m. on the 2nd Friday preceding the latest time prescribed in this paragraph for filing declarations of candidacy, that the incumbent is not a candidate for reelection to his or her office, and the incumbent does not file a declaration of candidacy for that office within the time prescribed in this paragraph.

4. In the case of a 3–member school board, the qualified elector shall state in his or her declaration of candidacy and on the face of his or her nomination papers, if any, the office for which the elector is a candidate. In the case of an apportioned or numbered school board, the qualified elector shall state in his or her declaration of candidacy and on the face of his or her nomination papers, if any, the apportioned area or numbered seat for which the elector is a candidate.

5. If a candidate has not filed a registration statement under s. 11.05 by the time he or she files a declaration of candidacy, the candidate shall file the statement with the declaration. A candidate shall file an amended declaration under oath with the school district clerk in the event of a change in any information provided in the declaration as provided in s. 8.21.

(7) (a) No later than 5 p.m. on the 2nd Tuesday in January, the school district clerk shall verify the declarations of candidacy and certify the names of candidates who have filed valid nomination papers, where required, and who qualify for office. In making verifications or certifications, the school district clerk shall designate the form of each candidate's name to appear on the ballot in the manner prescribed in s. 7.08 (2) (a). Once filed, a declaration of candidacy or nomination papers may not be withdrawn.

(b) The school board shall require a primary election if there are more than 2 candidates for any seat on a 3–member board or more than twice as many candidates as there are members to be elected to an unnumbered school board of more than 3 members. In school districts in which a plan of apportionment of school board members under s. 120.02 (2) or a plan for election of school board members to numbered seats has been adopted, the school board shall require a primary election for particular apportioned areas for which there are more than twice as many candidates as there are members to be elected and for any numbered seat for which there are more than 2 candidates. When there is a primary election it shall be held in conjunction with the spring primary.

(8) The school district clerk shall do all of the following:

(a) Notify the municipal clerk of each municipality lying wholly or partially within the school district of the primary election if one is to be held and of the spring election and furnish those municipal clerks with a copy of the notice of the school board election.

(b) Determine for the primary, if any, and again for the spring election the order in which the names of candidates shall appear on the ballot by supervising the drawing of lots not later than the 2nd Tuesday in January, or the next day if the first Tuesday is a holiday, and the 2nd day following the completion of the canvass of the primary election, if any.

(c) Cause to be given a class 1 notice, in accordance with ch. 985, on the Monday before the primary election, if one is to be held, and on the Monday before the spring election. If publication is made in a newspaper which does not publish on Monday, publication shall be made on the closest preceding day on which the newspaper publishes. If the school district clerk determines that due to the method of delivering newspapers in the school district more effective notice will be provided by publication at an earlier date, the school district clerk may publish the notice not earlier than 3 days before the primary or election. The notice shall contain the following information:

1. The date of the election.
2. The names of all candidates in the order in which they are listed on the ballot.
3. The location and open hours of polling places and a designation of which persons should vote at each polling place.
4. A facsimile ballot and the relevant portions of the voting instructions under s. 10.02 (3).

(d) Where paper ballots are utilized at a spring primary or election, provide the municipal clerk an adequate supply of ballots for the primary or election at least 22 days before the primary or election.

(e) Receive all ballots after they have been counted, reported and secured.

(f) After the spring primary, if any, after the spring election, and after any special primary, election or referendum, assure that the returns are canvassed as provided in sub. (14) and s. 7.53 (3).

(g) Retain and supervise the destruction of election materials from the primary, if any, and the spring election pursuant to s. 7.23 insofar as applicable.

(h) Whenever a recount of a primary or other election is required, assure that the recount is conducted by the municipal and school district boards of canvassers pursuant to s. 9.01.

(9) (a) The primary and spring elections for school board members shall be conducted by the election officials for state and municipal elections. In a school board election held in conjunc-

tion with a state, county, municipal or judicial election, the polling places for the state, county, municipal or judicial election shall be the polling places for the school board election and the municipal election hours shall apply. If no state, county, municipal or judicial election is held on the day of the school board election, the school board may select the polling places to be used. The election costs shall be charged as provided in ss. 5.68 and 7.03.

(b) The school board may not select a polling place to be closed under par. (a) if:

1. Ten percent or more of the electors voting in the last school board election voted at the polling place; or
2. The polling place is located in a municipality which is located entirely within the school district.

(c) The school board shall post a notice on the door of any polling place not selected indicating all polling places selected and open for voting.

(10) Within 8 days after the election or appointment of any person to the school board, the school district clerk shall notify the person of his or her election or appointment. Notice of election shall be provided in the manner prescribed in s. 7.53 (3) (a). On or prior to the day provided for taking office, a school board member shall take and file the official oath.

(11) The absentee ballot provisions of ss. 6.84 to 6.89 apply to elections under this section. Voting machines or an electronic voting system shall be used in any city, village or town lying wholly or partially within a school district conducting an election under this section if the machines or system are required under s. 5.40.

(12) An election in accordance with s. 17.26 to fill an unexpired term on a school board shall be held in the same manner as a regular school board election is held. In the case of a school board of more than 3 members, elections to fill unexpired terms shall be held simultaneously with the elections for regular terms, the regular terms to be filled by the appropriate number of candidates receiving the highest number of votes and the unexpired terms to be filled by the appropriate number of candidates receiving the next highest number of votes.

(13) A person attempting to vote at an election of school board members may be challenged as provided in s. 6.92, 6.925 or 120.08 (3).

(14) The school district clerk shall receive the returns of each school district election, as compiled by the inspectors at each polling place of each municipality in which the school district is contained, from the municipal clerk of that municipality. The school district shall then canvass and determine the results of the election.

(15) Unless otherwise provided by this chapter, s. 117.22, or other applicable law, the elections for school board members shall be guided by the municipal election laws.

History: 1973 c. 340; 1975 c. 138, 199; 1977 c. 340; 1979 c. 32, 260; 1981 c. 47; 1983 a. 484; 1985 a. 225 s. 100; 1985 a. 304 ss. 150 to 153, 156; 1985 a. 332; 1987 a. 391; 1989 a. 114, 192; 1991 a. 62; 1993 a. 266; 1995 a. 16 s. 2; 1997 a. 286; 1999 a. 83, 182; 2001 a. 38; 2003 a. 265; 2005 a. 333.

120.08 School district meetings. Every elector of a common or union high school district is eligible to vote at an annual or special meeting of the school district.

(1) ANNUAL MEETING. (a) Common school districts shall hold an annual meeting on the 4th Monday in July at 8 p.m. and union high school districts shall hold an annual meeting on the 3rd Monday in July at 8 p.m. unless the electors at one annual meeting determine to thereafter hold the annual meeting on a different date or hour, or authorize the school board to establish a different date or hour. No annual meeting may be held before May 15 or after October 31. The first school district meeting in a common or union high school district created under s. 117.08, 117.09, or 117.27 shall be considered an annual meeting.

(b) The place of the annual meeting shall be in a schoolhouse in the school district. If a schoolhouse which will accommodate the electors is not available, the place of the annual meeting shall be the nearest available place designated by the school board.

(c) The school district clerk shall publish a class 2 notice, under ch. 985, of the time and place of the annual meeting, the last insertion to be not more than 8 days nor less than one day before the annual meeting. The school district clerk shall give like notice for any adjourned meeting, if the adjournment is for more than 30 days. No annual meeting shall be deemed illegal for want of notice.

(2) SPECIAL MEETING. (a) Upon petition filed with the school district clerk signed by 3% of the electors residing in the school district or 100 electors, whichever is fewer, or upon the motion of the school board in a common or union high school district, a special meeting shall be called by the school district clerk or, in his or her absence, by the school district president or school district treasurer. If the petition includes a subject beyond the power of the special meeting to transact, the school district clerk shall reject such subject and so notify each elector signing the petition.

(b) Notice of a special meeting shall be published as a class 2 notice, under ch. 985. The last insertion shall be not more than 8 days nor less than one day before the day of the special meeting. If no hour for the special meeting is fixed in the notice, it shall be held at 8 p.m.

(c) A special meeting has the powers of the annual meeting. No more than 2 special meetings may be held between annual meetings to consider or act upon the same subject, except that in counties having a population of 500,000 or more no more than 4 such meetings may be held. No tax may be voted at a special meeting, unless notice thereof is included in the notice under par. (b). The amount of the tax proposed to be voted shall be set forth in the notice. The special meeting may vote a tax of a lesser amount than stated in the notice, but not a greater amount.

(3) CHALLENGE. If a person attempting to vote at an annual or special meeting is challenged, the chairperson of the meeting shall state to the person challenged the qualifications necessary to vote at the meeting. If such person declares that he or she is eligible to vote and if such challenge is not withdrawn, the chairperson shall administer the following oath or affirmation to him or her: "You do solemnly swear (or affirm) that you are an actual resident of this school district and that you are qualified, according to law, to vote at this meeting". A person taking such oath or affirmation shall be permitted to vote, but if that person refuses to take such oath or affirmation that person may not vote.

History: 1979 c. 164, 301; 1989 a. 114; 1993 a. 184; 1997 a. 87; 2001 a. 16.

120.09 Consideration of special subject. If in a common or union high school district at least 60 days prior to the annual meeting a petition is filed with the school district clerk signed by 100 electors requesting that the annual meeting consider a special subject or item of business which is a proper subject or item for consideration at the annual meeting, the school district clerk shall incorporate a statement of the subject or item in the notice of the annual meeting. The school district clerk shall prepare the proper ballot to permit voting on the subject or item at the annual meeting. If the petition includes a subject beyond the power of the annual meeting, the school district clerk shall reject that part of the petition which contains such subject and notify the proper person within 20 days of the school district clerk's receipt of the petition. The petition shall designate a person or a representative of an organization to be notified in case of its rejection.

History: 1975 c. 138, 199.

120.10 Powers of annual meeting. The annual meeting of a common or union high school district may:

(1) CHAIRPERSON AND CLERK. Elect a chairperson and, in the absence of the school district clerk, elect a person to act as the clerk of the meeting.

(2) ADJOURNMENT. Adjourn from time to time.

(3) SALARIES OF SCHOOL BOARD MEMBERS. Vote annual salaries for school board members or an amount for each school board meeting the member actually attends.

(4) REIMBURSEMENT OF SCHOOL BOARD MEMBERS. Authorize the payment of actual and necessary expenses of a school board member when traveling in the performance of duties and the reimbursement of a school board member for actual loss of earnings when duties require the school board member to be absent from regular employment.

(5) BUILDING SITES. Designate sites for school district buildings and provide for the erection of suitable buildings or for the lease of suitable buildings for a period not exceeding 20 years with annual rentals fixed by the lease.

(5m) REAL ESTATE. Authorize the school board to acquire, by purchase or condemnation under ch. 32, real estate and structures and facilities appurtenant to such real estate necessary for school district purposes.

(6) TAX FOR SITES, BUILDINGS AND MAINTENANCE. Vote a tax to purchase or lease suitable sites for school buildings, to build, rent, lease or purchase and furnish, equip and maintain school district buildings. The tax may be spread over as many years as are required to pay any obligations approved or authorized at the annual meeting including rental payments due in future years under an authorized lease.

(7) TAX FOR TRANSPORTATION VEHICLES. Vote a tax to purchase, operate and maintain transportation vehicles and to purchase liability insurance for such vehicles, and to finance contracts for the use and services of such vehicles.

(8) TAX FOR OPERATION. Vote a tax for the operation of the schools of the school district.

(9) TAX FOR DEBTS. Vote a tax necessary to discharge any debts or liabilities of the school district.

(10) SCHOOL DEBT SERVICE FUND. Vote a tax to create a fund for the purpose of paying all current bonded indebtedness for capital expenditures. All money raised through taxation or otherwise collected pursuant to this subsection shall be deposited by the school district treasurer in a segregated fund. Such money shall not be used for any other purpose, except as provided by s. 67.11 (1), or be transferred to any other fund except by authorization by a two-thirds majority vote of the total number of electors of the school district.

(10m) SCHOOL CAPITAL EXPANSION FUND. Vote a tax to create a fund for the purpose of financing all current and future capital expenditures related to buildings and sites. All money raised through taxation or otherwise collected pursuant to this subsection shall be deposited by the school district treasurer in a segregated fund. Such money shall not be used for any other purpose or be transferred to any other fund except by authorization by a majority vote of the electors present at a subsequent annual meeting and only if notice that the issue would be on the agenda was included in the notice of the subsequent annual meeting under s. 120.08 (1) (c).

(11) TAX FOR RECREATION AUTHORITY. Vote a tax for the purposes specified in s. 66.0123.

(12) SALE OF PROPERTY. Authorize the sale of any property belonging to and not needed by the school district. If a school site or other lands are to be abandoned which were acquired or are held upon condition that they revert to the prior owner when no longer used for school purposes, the school board shall sell any school buildings thereon or move them to another site within 8 months after the school buildings cease to be used for school purposes or the site ceases to be maintained as a school district playground or park.

(14) LEGAL PROCEEDINGS. Direct and provide for the prosecution or defense of any action or proceedings in which the school district is interested.

(15) TEXTBOOKS. Authorize the school board to furnish textbooks under conditions prescribed by the annual meeting or by the school board. The authorization shall continue in effect until revoked by a subsequent annual meeting.

(16) SCHOOL LUNCHES. Direct the school board to furnish school lunches to the pupils of the school district and appropriate funds for that purpose.

(19) CONSOLIDATION OF HIGH SCHOOLS. In a union high school district, vote to consolidate schools or to discontinue a school where more than one high school is operated by the school district.

History: 1975 c. 39, 115, 199; 1977 c. 206; 1979 c. 301; 1981 c. 20; 1983 a. 207, 339; 1985 a. 29, 218; 1993 a. 184; 1999 a. 150 s. 672.

An action may be instituted and maintained by the school district board without specific approval of the district when management, control, and conservation of school district property requires speedy application for process. *Chilton Joint School Dist. No. 1 v. City of Chilton*, 78 Wis. 2d 52, 253 N.W.2d 879 (1977).

The power to convert an elementary school to another educational use is not granted by subs. (5) or (12). The school board has this power under s. 120.13 (1). *Waldeck v. Goedken*, 84 Wis. 2d 408, 267 N.W.2d 362 (1978).

Sub. (10) authorizes levying a tax for the purposes of current or future capital expenditures even without corresponding, existing bonded indebtedness. *Barth v. Monroe Board of Education*, 108 Wis. 2d 511, 322 N.W.2d 694 (Ct. App. 1982).

Nothing in sub. (6) limits a district from paying a building lease from a general fund raised by the levy of taxes under sub. (8) for school operations. *Deick v. Unified School District of Antigo*, 165 Wis. 2d 458, 477 N.W.2d 613 (1991).

A common school district's authority under sub. (12) to lease surplus property is discussed. 67 Atty. Gen. 332.

120.11 School board meetings and reports. (1) The school board in a common or union high school district shall hold a regular meeting at least once each month at a time and place determined by the school board and may hold special school board meetings under sub. (2). A majority of the school board members constitute a quorum at a regular or special school board meeting. The school district president shall preside at school board meetings. In the president's absence, the school district vice president shall preside or, in the case of a 3-member board, the school board may select another school board member to preside. The school district clerk shall record the minutes of school board meetings and, in his or her absence, the school board may select another school board member to act as the clerk of the meeting.

(2) A special school board meeting shall be held upon the written request of any school board member. The request shall be filed with the school district clerk or, in the clerk's absence, the school district president who shall notify in writing each school board member of the time and place of the special school board meeting at least 24 hours before the meeting. The notice shall be delivered to each school board member personally or shall be left at the usual place of abode of the school board member or shall be mailed by 1st class mail to the usual place of abode of the school board member so as to arrive at least 24 hours before the special school board meeting. A special school board meeting may be held without prior notice, if all school board members are present and consent, or if every school board member consents in writing even though he or she does not attend.

(3) Before the annual meeting, the school board shall meet to examine the accounts of the school district treasurer and to prepare a full, itemized written report which shall be presented and read at the annual meeting. The report shall state all receipts and expenditures of the school district since the last annual meeting, the current cash balance of the school district, the amount of the deficit and the bills payable of the school district, the amount necessary to be raised by taxation for the support of the schools of the school district for the ensuing year and the amount required to pay the interest and principal of any debt due during the ensuing year. The report also shall include the budget summary required under s. 65.90. If a school board has established a trust described in s. 66.0603 (1m) (b) 3., the report shall also state the amount in the trust, the investment return earned by the trust since the last annual meeting, the total of disbursements made from the trust since the last annual meeting, and the name of the investment manager if investment authority has been delegated under s. 66.0603 (3) (b). The school district clerk shall copy the report, with the action taken thereon, and all other proceedings of the annual meeting in full in the school district record book.

(4) The proceedings of a school board meeting shall be published within 45 days after the meeting as a class I notice, under ch. 985, in a newspaper published in the school district, if any, or

publicized by school district-wide distribution prepared and directed by the school board and paid out of school funds. If there is no newspaper published in the school district, the proceedings shall be posted or published as the school board directs. For the purpose of publication, the proceedings shall include the substance of every official action taken by the school board at the meeting and a statement of receipts and expenditures in the aggregate. The school board shall make a detailed record of all receipts and expenditures available to the public for inspection at each school board meeting and upon request.

History: 1979 c. 141, 173; 1983 a. 27, 339; 2005 a. 99.

120.115 Report on debt service. (1) (a) Within 10 days after adopting a resolution that authorizes the school board to incur debt or that authorizes the common council of a 1st class city to incur debt on behalf of the school district operating under ch. 119, the school board shall notify the department of the scheduled date of the referendum and submit a copy of the resolution to the department.

(b) Within 10 days after holding a referendum that would authorize the school district to incur debt or that would authorize the common council of a 1st class city to incur debt on behalf of the school district operating under ch. 119, the school board shall notify the department of the approval or rejection of the referendum.

(2) (a) Within 10 days after adopting or revising a schedule for the payment of debt service, the school board shall submit the schedule to the department.

(b) Within 10 days after adopting or revising a schedule for the payment of debt service on debt issued on behalf of the school district operating under ch. 119, the common council of a 1st class city shall submit the schedule to the department.

(3) Monthly, the department shall submit to the department of administration and the legislative fiscal bureau a report that aggregates all debt service payment schedules submitted under sub. (2).

History: 1997 a. 27, 237.

120.12 School board duties. The school board of a common or union high school district shall:

(1) **MANAGEMENT OF SCHOOL DISTRICT.** Subject to the authority vested in the annual meeting and to the authority and possession specifically given to other school district officers, have the possession, care, control and management of the property and affairs of the school district, except for property of the school district used for public library purposes under s. 43.52.

(2) **GENERAL SUPERVISION.** Visit and examine the schools of the school district, advise the school teachers and administrative staff regarding the instruction, government and progress of the pupils and exercise general supervision over such schools.

(3) **TAX FOR OPERATION AND MAINTENANCE.** (a) On or before November 1, determine the amount necessary to be raised to operate and maintain the schools of the school district and public library facilities operated by the school district under s. 43.52, if the annual meeting has not voted a tax sufficient for such purposes for the school year. On or before November 6, the school district clerk shall certify the appropriate amount so determined to each appropriate municipal clerk who shall assess the amount certified and enter it on the tax rolls as other school district taxes are assessed and entered.

(b) If a tax sufficient to operate and maintain the schools of a school district for the ensuing school year has not been determined, certified and levied prior to the effective date of school district reorganization under ch. 117 affecting any territory of the school district, the school board of the affected school district shall determine, on or before the November 1 following the effective date of the reorganization, the amount of deficiency in operation and maintenance funds on the effective date of the reorganization which should have been paid by the property in the affected school district if the tax had been determined, certified and assessed prior to the effective date of the reorganization. On or

before November 6, the school district clerk shall certify the appropriate amount to each appropriate municipal clerk who shall assess, enter and collect the amount as a special tax on the property. This paragraph does not affect the apportionment of assets and liabilities under s. 66.0235.

(c) If on or before November 1 the school board determines that the annual meeting has voted a tax greater than that needed to operate the schools of the school district for the school year, the school board may lower the tax voted by the annual meeting. On or before November 6, the school district clerk shall certify the appropriate amount so determined to each appropriate municipal clerk who shall assess the amount certified to him or her and enter it on the tax rolls in lieu of the amount previously reported.

(d) If on or before November 1 the school board determines that the annual meeting has voted a tax that would violate the limit under subch. VII of ch. 121, the school board shall lower the tax to bring it into compliance with that limit.

(4) TAX FOR DEBT RETIREMENT. On or before November 1, determine the amount necessary to meet any irrevocable tax obligations or other financial commitments of the school district not otherwise provided for. The school district clerk shall certify the amount apportioned to each appropriate municipal clerk who shall include the amount certified and enter it on the tax rolls as other school district taxes are assessed and entered.

(5) REPAIR OF SCHOOL BUILDINGS. Keep the school buildings and grounds in good repair, suitably equipped and in safe and sanitary condition at all times. The school board shall establish an annual building maintenance schedule.

(6) INSURANCE ON SCHOOL PROPERTY. Keep the school buildings, equipment and other property amply insured. If there are no funds in the school district treasury sufficient to pay the premium, the school board may execute a note for that purpose.

(7) DEPOSITORY. Designate one or more public depositories in which the money belonging to the school district shall be deposited and specify whether the moneys shall be maintained in time deposits subject to the limitations of s. 66.0603 (1m), demand deposits or savings deposits. When the money is so deposited in the name of the school district, the school district treasurer and bondsmen are not liable for any loss as defined in s. 34.01 (2). The interest on such deposits shall be paid into the school district treasury.

(9) DISCUSSION OF PUBLIC QUESTIONS. Upon the written application of one-half of the electors of the school district, allow the use of the school buildings or grounds for the free discussion of public questions so far as such use does not interfere, in the opinion of the school board, with the prime purpose of the school buildings or grounds.

(11) INDIGENT CHILDREN. Provide books and school supplies for indigent children residing in the school district.

(12) SANITARY FACILITIES. Provide and maintain enough suitable and separate toilets and other sanitary facilities for both sexes at each school.

(14) COURSE OF STUDY. Determine the school course of study.

(15) SCHOOL HOURS. Establish rules scheduling the hours of a normal school day. The school board may differentiate between the various elementary and high school grades in scheduling the school day. The equivalent of 180 such days, as defined in s. 115.01 (10), shall be held during the school term. This subsection shall not be construed to eliminate a school district's duty to bargain with the employee's collective bargaining representative over any calendaring proposal which is primarily related to wages, hours and conditions of employment.

(16) IMMUNIZATION OF CHILDREN. (a) In cooperation with local health departments, as defined in s. 250.01 (4), develop and implement a plan to encourage compliance with par. (b) and s. 252.04 (2) and submit the plan to the department of health and family services by September 1, 1991, and annually thereafter.

(b) Require each student to present evidence of completed basic and recall (booster) series immunizations unless the student, if an adult, or the parent, guardian or legal custodian of a minor student submits a written waiver to the school board under s. 252.04 (3).

(17) UNIVERSITY OF WISCONSIN SYSTEM TUITION. Pay the tuition of any pupil enrolled in the school district and attending an institution within the University of Wisconsin System if the pupil is not participating in the program under s. 118.55, the course the pupil is attending at the university is not offered in the school district and the pupil will receive high school credit for the course.

(18) CONTINUITY OF EDUCATIONAL PROGRAMMING. Coordinate and provide for continuity of educational programming for pupils receiving educational services as the result of a court order under s. 48.345 (12) or 938.34 (7d), including but not limited to providing a report to the court assigned to exercise jurisdiction under chs. 48 and 938 and the agency which is required to submit an educational plan for a child under s. 48.33 or 938.33 (1) (e). The report shall describe the child's educational status and make recommendations regarding educational programming for the child. The report shall be in writing, except that if the educational plan under s. 938.33 (1) (e) is presented orally at the dispositional hearing the report may be presented orally to the court assigned to exercise jurisdiction under chs. 48 and 938 and the agency at the dispositional hearing. If written, the report shall be provided to the court assigned to exercise jurisdiction under chs. 48 and 938 and the agency at least 3 days before the date of the child's dispositional hearing.

(19) INTEGRATED SERVICE PROGRAM. If the county board of supervisors establishes an integrated service program for children with severe disabilities under s. 59.53 (7), participate in an integrated service program for children with severe disabilities under s. 59.53 (7) and may enter into written interagency agreements or contracts under the program.

(20) PROHIBITION OF TOBACCO. Prohibit the use of all tobacco products on premises owned or rented by, or under the control of, a school board, except that the school board may allow the use of tobacco products on premises owned by the school district and rented to another person for noneducational purposes.

(21) CONSIDERATION OF EFFECTS ON HISTORIC PROPERTIES. (a) In the earliest stage of planning any action related to the following, determine if its proposed action will affect any historic property that is a listed property, as defined under s. 44.31 (4), or that is on the list of locally designated historic places under s. 44.45:

1. Long-range planning for facilities development.
2. Razing any historic property that it owns.

(b) Notify the state historic preservation officer of any proposed action that the school board determines under par. (a) would affect any historic property.

(22) ADVANCED PLACEMENT EXAMINATIONS. Pay the costs of advanced placement examinations taken by pupils enrolled in the school district who are eligible for free or reduced-price lunches in the federal school lunch program under 42 USC 1758.

(23) PUPIL PARTICIPATION IN SCHOOL ACTIVITIES. Adopt a policy on access to extracurricular and recreational school programs and activities that encourages full participation by all elementary grade pupils in these programs and activities. This subsection does not apply to the school board of a union high school district.

(24) HEALTH CARE BENEFITS. Prior to the selection of any group health care benefits provider for school district professional employees, as defined in s. 111.70 (1) (ne), solicit sealed bids for the provision of such benefits.

(25) EARLY ADMISSION TO KINDERGARTEN AND FIRST GRADE. Prescribe procedures, conditions and standards for early admission to kindergarten and first grade.

(26) SCHOOL SAFETY PLANS. Have in effect a school safety plan for each school in the school district.

History: 1973 c. 61, 90; 1975 c. 180, 421; 1977 c. 206, 418; 1979 c. 301, 318, 334; 1983 a. 189 s. 329 (21); 1985 a. 29, 218, 225; 1987 a. 285; 1989 a. 31, 114, 209, 264, 359; 1991 a. 39, 269; 1993 a. 16, 27, 437; 1995 a. 27 ss. 4022r, 4023m, 9126 (19), 9145 (1); 1995 a. 77, 201; 1997 a. 27, 160, 237, 240; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 30; 2005 a. 220.

Nothing in ch. 62 or 120 precludes a school board from qualifying as a proper “claimant” against a city under s. 62.25. *Chilton Joint School District No. 1 v. City of Chilton*, 78 Wis. 2d 52, 253 N.W.2d 879 (1977).

Section 66.185 [now sub. (5)] does not prohibit providing health insurance benefits to persons not listed in the statute if authority is granted by other statutes. Sections 120.12, 120.13, and 120.44, broadly construed as required by s. 118.001, grant broad powers, including that of providing insurance to persons not listed in this section. *Pritchard v. Madison Metropolitan School District*, 2001 WI App 62, 242 Wis. 2d 301, 625 N.W.2d 613, 00–0848.

The duties and powers under ss. 118.001, 120.12 (14), and 120.13 extend to individual teachers as employees of the school board. It would be absurd to require teachers to obtain special permission from the school board with respect to every detail of their teaching. Summer homework, particularly for an honors class for which students receive additional credit, fits comfortably within the range of what is reasonable and is not unconstitutional. *Larson v. Burmaster*, 2006 WI App 142, 05–1433.

Under sub. (3), the school board of common or union high school district has ultimate authority to determine the tax levy for operation and maintenance of the schools in the district. 79 Atty. Gen. 46.

School boards have authority to enforce policies that mandate the manner, conditions, and content of police interviews with students on school premises during school hours. 81 Atty. Gen. 126.

Individual school board members are not liable for a failure to supervise district employees. *Callaway v. Hafeman*, 628 F. Supp. 1478 (1985).

120.125 Before– and after–school day care. (1) In this section, “before– and after–school day care program” means a program which provides day care services before school, after school or both before and after school.

(2) (a) A school board shall permit a day care provider who has submitted a request which meets all of the requirements under sub. (3) to administer a before– and after–school day care program in any elementary school within the school district unless:

1. There is a limitation of reasonably available space within the elementary school;
2. The school board has previously accepted a request which was submitted under this subsection;
3. Before– and after–school day care programs exist in the elementary school;
4. The school board intends to provide before– and after–school day care services in the elementary school;
5. The requirements under sub. (3) have not been met; or
6. Paragraph (b) applies.

(b) The school board may deny a request under par. (a) 6. if the school board intends to solicit day care providers to submit requests to provide before– and after–school day care programs in the elementary school for which a request under par. (a) was submitted. If a school board denies a request under this paragraph, the request submitted under par. (a) shall be considered along with requests that are submitted as a result of the school board solicitation.

(c) If a school board denies a request under par. (a) or (b), the school board shall specify the reasons for denial, in writing, to the day care provider within 60 days after the date on which the request is received.

(3) (a) A request submitted to a school board under sub. (2) shall be in writing, name the elementary school in which the before– and after–school day care program is to be provided and shall specify the amount of space needed, the number and ages of the pupils to be served and the time the provider intends to operate the program. The request shall also contain all of the following assurances:

1. That the day care provider will be responsible for all actual incremental costs incurred by the school as a result of permitting the day care provider to provide a before– and after–school day care program in the school building.
2. That the day care provider will be liable to the school district for any damage to property in the operation of the before– and after–school day care program, that the day care provider shall hold the school district harmless from any liability, claim or dam-

ages caused by the acts or omissions of the day care provider, and that the day care provider will acquire adequate insurance coverage, as determined by the school district.

3. That the day care provider will not provide religious instruction or permit religious practices to be conducted during the before– and after–school day care program.

(b) A school board shall conditionally grant a request submitted by a day care provider if all the requirements under par. (a) are met and sub. (2) (a) 1. to 6. and (b) does not apply.

(4) If a request under sub. (3) is conditionally accepted by the school board, the school board shall enter into a written agreement with the day care provider that specifies the hours during the day in which the day care provider is to occupy the school premises and the rooms, facilities or equipment that are to be used by the day care provider. The agreement shall also provide all of the following:

(a) Except as provided under s. 121.545 (2), that the school board is not responsible for providing transportation to or from the before– and after–school day care program.

(b) That nothing in the agreement would prohibit the school board from permitting other day care providers to provide day care services to pupils in the same building during the same time and that nothing in the agreement would prohibit the school district from providing before– and after–school day care programs in the same building and during the same time in which the day care provider provides before– and after–school day care programs.

(c) That the agreement may be terminated by the school board at the end of a school year if the school board intends to provide day care for the pupils in the elementary school or intends to solicit other day care providers to provide services during the following school year.

(d) That the school board may review and terminate the agreement at any time, with 30 days’ prior written notice to the day care provider, if any of the conditions in the agreement are violated by the day care provider.

(e) That the day care provider shall be responsible for all actual costs incurred by the school district as a result of the agreement, the costs of which shall be paid to the school district at times specified by the school board in the agreement.

(f) That the day care provider shall be liable to the school district for any damage to property in the operation of the before– and after–school day care program, that the day care provider shall hold the school district harmless from any liability, claim or damages caused by the acts or omissions of the day care provider, and that the day care provider shall acquire adequate insurance, as determined by the school district, to be in effect beginning the first day on which the day care provider provides the before– and after–school day care program.

(g) That the day care provider shall not provide religious instruction or permit religious practices to be conducted during the before– and after–school day care program.

(h) That the day care provider shall meet the standards for licensed day care centers established by the department of health and family services.

History: 1987 a. 386; 1991 a. 39; 1995 a. 27 s. 9126 (19).

120.13 School board powers. The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(1) SCHOOL GOVERNMENT RULES; SUSPENSION; EXPULSION. (a) Make rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere, which shall take effect when approved by a majority of the school board and filed with the school district clerk. Subject to 20 USC 1415 (k), the school board

shall adopt a code to govern pupils' classroom conduct beginning in the 1999–2000 school year. The code shall be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil services professionals and other residents of the school district who are appointed to the committee by the school board. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3). The code shall include all of the following:

1. A specification of what constitutes dangerous, disruptive or unruly behavior or behavior that interferes with the ability of the teacher to teach effectively under s. 118.164 (2).
2. Any grounds in addition to those under subd. 1. for the removal of a pupil from the class under s. 118.164 (2).
3. The procedures for determining the appropriate educational placement of a pupil who has been removed from the class and assigned a placement by the school principal or his or her designee under s. 118.164.

4. A procedure for notifying the parent or guardian of a minor pupil who has been removed from the class under s. 118.164 (2).

(b) 1. In addition to rule-making authority granted school boards under par. (a), the school district administrator, or any principal or teacher designated by the school district administrator, may make rules with the consent of the school board.

2. The school district administrator or any principal or teacher designated by the school district administrator may suspend a pupil for not more than 5 school days or, if a notice of expulsion hearing has been sent under par. (c) 4. or (e) 4. or s. 119.25 (2) (c), for not more than a total of 15 consecutive school days for any of the following reasons:

- a. Noncompliance with rules adopted under subd. 1. or school board rules.
- b. Knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives.
- c. Conduct by the pupil while at school or while under the supervision of a school authority that endangers the property, health or safety of others.
- d. Conduct while not at school or while not under the supervision of a school authority that endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled.

2m. In subdivision 2. c. and d., conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

3. Prior to any suspension, the pupil shall be advised of the reason for the proposed suspension. The pupil may be suspended if it is determined that the pupil is guilty of noncompliance with a school board rule or a rule adopted under subd. 1., or of the conduct charged, and that the pupil's suspension is reasonably justified. The parent or guardian of a suspended minor pupil shall be given prompt notice of the suspension and the reason for the suspension.

4. The suspended pupil or the pupil's parent or guardian may, within 5 school days following the commencement of the suspension, have a conference with the school district administrator or his or her designee who shall be someone other than a principal, administrator or teacher in the suspended pupil's school. If the school district administrator or his or her designee finds that the pupil was suspended unfairly or unjustly, or that the suspension was inappropriate, given the nature of the alleged offense, or that the pupil suffered undue consequences or penalties as a result of the suspension, reference to the suspension on the pupil's school record shall be expunged. The administrator, or the administrator's designee, shall make a finding within 15 days of the conference.

5. A pupil suspended under this paragraph shall not be denied the opportunity to take any quarterly, semester or grading period examinations or to complete course work missed during the suspension period, as provided in the attendance policy established under s. 118.16 (4) (a).

(bm) The school district administrator or any principal or teacher designated by the school district administrator shall suspend a pupil under par. (b) if the school district administrator, principal or teacher determines that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a) (3). This paragraph does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

(c) 1. The school board may expel a pupil from school whenever it finds the pupil guilty of repeated refusal or neglect to obey the rules, or finds that a pupil knowingly conveyed or caused to be conveyed any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives, or finds that the pupil engaged in conduct while at school or while under the supervision of a school authority which endangered the property, health or safety of others, or finds that a pupil while not at school or while not under the supervision of a school authority engaged in conduct which endangered the property, health or safety of others at school or under the supervision of a school authority or endangered the property, health or safety of any employee or school board member of the school district in which the pupil is enrolled, and is satisfied that the interest of the school demands the pupil's expulsion. In this subdivision, conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

2. In addition to the grounds for expulsion under subd. 1., the school board may expel from school a pupil who is at least 16 years old if the school board finds that the pupil repeatedly engaged in conduct while at school or while under the supervision of a school authority that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority and that such conduct does not constitute grounds for expulsion under subd. 1., and is satisfied that the interest of the school demands the pupil's expulsion.

2m. The school board shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever it finds that the pupil, while at school or while under the supervision of a school authority, possessed a firearm, as defined in 18 USC 921 (a) (3). Annually, the school board shall report to the department the information specified under 20 USC 8921 (d) (1) and (2). This subdivision does not apply to the possession of a firearm while legally hunting in a school forest if allowed under s. 120.13 (38).

3. Prior to expelling a pupil, the school board shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel. The school board shall keep written minutes of the hearing. Upon the ordering by the school board of the expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located.

4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

- a. The specific grounds, under subd. 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.
- b. The time and place of the hearing.
- c. That the hearing may result in the pupil's expulsion.
- d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.
- e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.
- f. That the school board shall keep written minutes of the hearing.
- g. That if the school board orders the expulsion of the pupil the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.
- h. That if the pupil is expelled by the school board the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.
- i. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.
- j. That the decision of the school board shall be enforced while the department reviews the school board's decision.
- k. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.

L. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

(d) No pupil enrolled in a school district operating under ch. 119 may be suspended or expelled from school for truancy.

(e) 1. The school board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under subd. 2. instead of using the procedure under par. (c) 3.:

- a. An independent hearing panel appointed by the school board.
- b. An independent hearing officer appointed by the school board.

2. During any school year in which a resolution adopted under subd. 1. is effective, the independent hearing officer or independent hearing panel appointed by the school board:

- a. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 1. or 2.
- b. Shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever that hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 2m.

3. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. Within 30 days after the date on which the order is issued, the school

board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the school board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the state superintendent. If the school board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located. This paragraph does not apply to a school district operating under ch. 119.

4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

- a. The specific grounds, under par. (c) 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.
- b. The time and place of the hearing.
- c. That the hearing may result in the pupil's expulsion.
- d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.
- e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.

f. That the hearing officer or panel shall keep a full record of the hearing and, upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian.

g. That if the hearing officer or panel orders the expulsion of the pupil the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

h. That within 30 days of the issuance of an expulsion order the school board shall review the order and shall, upon review, approve, reverse or modify the order.

i. That, if the pupil is expelled by the hearing officer or panel, the order of the hearing officer or panel shall be enforced while the school board reviews the order.

j. That, if the pupil's expulsion is approved by the school board, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.

k. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.

L. That the decision of the school board shall be enforced while the department reviews the school board's decision.

m. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.

n. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

(f) No school board is required to enroll a pupil during the term of his or her expulsion from another school district. Notwithstanding s. 118.125 (2) and (4), if a pupil who has been expelled from one school district seeks to enroll in another school district during the term of his or her expulsion, upon request the school board of the former school district shall provide the school board of the latter school district with a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled and the length of the term of the expulsion.

(g) The school board may modify the requirement under pars. (c) 2m. and (e) 2. b. on a case-by-case basis.

(h) 1. In this paragraph:

a. “Early reinstatement” means the reinstatement to school of an expelled pupil before the expiration of the term of expulsion specified in the pupil’s expulsion order under par. (c) 3. or (e) 3.

b. “Early reinstatement condition” means a condition that a pupil is required to meet before he or she may be granted early reinstatement or a condition that a pupil is required to meet after his or her early reinstatement but before the expiration of the term of expulsion specified in the pupil’s expulsion order under par. (c) 3. or (e) 3.

2. A school board, or an independent hearing panel or independent hearing officer acting under par. (e), may specify one or more early reinstatement conditions in the expulsion order under par. (c) 3. or (e) 3. if the early reinstatement conditions are related to the reasons for the pupil’s expulsion. Within 15 days after the date on which an expulsion order is issued by an independent hearing panel or independent hearing officer, the expelled pupil or, if the pupil is a minor, the pupil’s parent or guardian may appeal the determination regarding whether an early reinstatement condition specified in the expulsion order is related to the reasons for the pupil’s expulsion to the school board. The decision of a school board regarding that determination is final and not subject to appeal.

3. If the school district administrator or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil’s school, determines that a pupil has met the early reinstatement conditions that he or she is required to meet before he or she may be granted early reinstatement, the school district administrator or designee may grant the pupil early reinstatement. The determination of the school district administrator or designee is final.

4. If a pupil violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the school district administrator or a principal or teacher designated by the school district administrator may revoke the pupil’s early reinstatement. Before revoking the pupil’s early reinstatement, the school district administrator or his or her designee shall advise the pupil of the reason for the proposed revocation, including the early reinstatement condition alleged to have been violated, provide the pupil an opportunity to present his or her explanation of the alleged violation and make a determination that the pupil violated the early reinstatement condition and that revocation of the pupil’s early reinstatement is appropriate. If the school district administrator or designee revokes the pupil’s early reinstatement, the school district administrator or designee shall give prompt written notice of the revocation and the reason for the revocation, including the early reinstatement condition violated, to the pupil and, if the pupil is a minor, to the pupil’s parent or guardian.

5. Except as provided in subd. 6., if a pupil’s early reinstatement is revoked under subd. 4., the pupil’s expulsion shall continue to the expiration of the term of the expulsion specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil’s parent or guardian and the school board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order.

6. Within 5 school days after the revocation of a pupil’s early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil’s parent or guardian may request a conference with the school district administrator or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil’s school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the school district administrator or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion

order and the early reinstatement revocation shall be expunged from the pupil’s record. If the school district administrator or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil’s parent or guardian. The decision of the school district administrator or his or her designee is final.

(2) INSURANCE. (a) Provide for accident insurance covering pupils in the school district. Such insurance shall not be paid from school district funds unless the expenditure is authorized by an annual meeting.

(b) Provide health care benefits on a self-insured basis to the employees of the school district if the school district has at least 100 employees. In addition, any 2 or more school districts which together have at least 100 employees may jointly provide health care benefits on a self-insured basis to employees of the school districts.

(c) Any self-insurance plan under par. (b) which covers less than 1,000 employees shall include excess or stop-loss reinsurance obtained through an insurer authorized to do business in this state, for the purpose of covering all eligible claims incurred during the term of the policy or contract.

(d) The commissioner of insurance may prescribe detailed requirements for reinsurance under par. (c) by rule or by order. The commissioner of insurance may promulgate rules governing self-insurance plans under pars. (b) to (g) to ensure that they comply with all applicable provisions of chs. 600 to 647.

(e) All personally identifiable medical and claims records relating to any self-insurance plan under par. (b) shall be kept confidential by the administrator of the self-insurance plan and shall be exempt from disclosure pursuant to s. 19.36 (1). This paragraph does not prohibit the release of personally identifiable records to school district personnel, to the extent that performance of their duties requires access to the records, but only with the prior written informed consent of the insured.

(g) Every self-insured plan under par. (b) shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4), (5), and (6), 632.895 (9) to (14), 632.896 and 767.513 (4).

(3) AGREEMENTS WITH GOVERNMENTAL UNITS. Enter into agreements, including leases for a term not exceeding 50 years, with a school board, technical college district board, city, village, town, county or the state or any department or agency thereof for the purchase, operation and maintenance of land, buildings and equipment for educational purposes, including, without limitation because of enumeration, contracts for the construction or repair of school driveways, roadways and parking areas or for the operation of any school program authorized by law.

(4) ON-FARM TRAINING TO VETERANS. Provide institutional on-farm training to veterans who are eligible for the training under any act of congress.

(5) BOOKS, MATERIAL AND EQUIPMENT. Purchase or otherwise acquire necessary books and stationery, equipment, school apparatus and materials for the use of the schools of the school district and purchase any school books which in its judgment are needed by pupils whose parents are not able to furnish such books.

(6) FEDERAL AID. Apply for, receive and expend moneys made available to it by any act of congress for educational programs, school property and facilities, research, school food service and other school district programs.

(7) EXCHANGE TEACHERS AND ADMINISTRATORS. Exchange any teacher or administrator employed by the school board for a teacher or administrator employed by a school board in another state or country or employed by a college or university, the state, a technical college district board or a cooperative educational service agency. No exchange may be for a longer period than one year. A teacher or administrator of this state exchanged under this subsection shall be deemed to have taught during the period in the

school district by which the teacher or administrator is employed and shall be assessed, for the benefit of the public employee trust fund, the full amount which would have been assessed against the teacher or administrator had the teacher or administrator actually taught in the school district.

(8) FUNDS FOR REWARDS. Establish a reward, not exceeding \$500, for information leading to the arrest and conviction of persons who damage or destroy school property or who injure any person while at school or under the supervision of a school authority.

(9) ARCHITECTS AND ENGINEERS. Contract with or employ architects and engineers for the preparation of plans and specifications for school buildings, structures and other improvements to school district property and for all other related services.

(9m) LEGAL SERVICES. Retain an attorney or attorneys to represent the board or school district in any action or proceeding brought for or against the board or district and provide for any other legal service for the welfare of the school district.

(10) SCHOOL FOOD SERVICE. Furnish school meals to pupils and pay for the meals out of school district funds. The school board may charge pupils and employees for the cost of school meals.

(11) NURSES AND DENTISTS. Employ qualified public health nurses, school nurses, registered nurses and licensed dentists who shall cooperate with the local board of health, as defined in s. 250.01 (3), and the department of health and family services.

(12) HISTORICAL RECORDS. Under s. 44.09 (1), transfer title to any school records to the state historical society which are no longer needed for the proper administration of the school district and which the society determines are of permanent historical interest.

(13) PREKINDERGARTEN CLASSES. Establish and maintain classes for children less than 4 years of age under such regulations as it prescribes. The school board may accept and receive federal funds for such purpose and expend such funds in conformity with the purposes and requirements thereof. The school board may charge a reasonable fee for attendance at such classes but may waive the fee or any portion thereof to any person who is unable to make payment.

(14) DAY CARE PROGRAMS. Establish and provide or contract for the provision of day care programs for children. The school board may receive federal or state funds for this purpose. The school board may charge a fee for all or part of the cost of the service for participation in a day care program established under this subsection. Costs associated with a day care program under this subsection may not be included in shared costs under s. 121.07 (6). Day care programs established under this subsection shall meet the standards for licensed day care centers established by the department of health and family services. If a school board proposes to contract for or renew a contract for the provision of a day care program under this subsection or if on July 1, 1996, a school board is a party to a contract for the provision of a day care program under this subsection, the school board shall refer the contractor or proposed contractor to the department of health and family services for the criminal history and child abuse record search required under s. 48.685. Each school board shall provide the department of health and family services with information about each person who is denied a contract for a reason specified in s. 48.685 (4m) (a) 1. to 5.

(15) SPECIAL HIGH SCHOOL COURSES. In a union high school district or a common school district operating elementary and high school grades, establish and maintain courses in industrial arts, home economics, agriculture, commercial subjects and such other courses as the school board determines.

(16) SCHOOL BOARD ORGANIZATION; FEE. Pay the membership fee in an organization of school boards in this state and the actual and necessary expenses of its representatives incurred in attending meetings of such organization.

(17) TEMPORARY USE OF SCHOOL PROPERTY. Grant the temporary use of school grounds, buildings, facilities or equipment,

upon such conditions, including fees not to exceed actual costs, as determined by the school board, to any responsible person for any lawful nonschool purpose if such use does not interfere with use for school purposes or school-related functions. Fees received under this subsection shall be paid into the school district treasury and accounted for as prescribed under s. 115.28 (13). The user shall be primarily liable, and the school board secondarily liable, for any damage to property and for any expense incurred in consequence of any use of school grounds, buildings, facilities or equipment under this subsection.

(18) PROPERTY FOR ECOLOGICAL, AGRICULTURAL OR VOCATIONAL INSTRUCTION. Subject to the authority of the annual or special meeting to approve the acquisition of real property, acquire real or personal property for ecological, agricultural or vocational instruction, experimentation or other school-related purposes.

(19) COMMUNITY PROGRAMS AND SERVICES. Establish and maintain community education, training, recreational, cultural or athletic programs and services, outside the regular curricular and extracurricular programs for pupils, under such terms and conditions as the school board prescribes. The school board may establish and collect fees to cover all or part of the costs of such programs and services. Costs associated with such programs and services shall not be included in the school district's shared cost under s. 121.07 (6).

(20) OPTIONS TO PURCHASE REAL PROPERTY. Solicit and obtain one or more options to purchase real property and, upon approval of the annual or special meeting, exercise such option.

(21) LECTURES. Provide free lectures on educational subjects in school buildings, public library buildings or other suitable places, and provide for the further education of the adult residents of the school district. The school board may purchase books, stationery, charts and other things necessary to conduct such lectures and may designate a person to manage such lectures.

(22) CABLE TELEVISION AND DATA PROCESSING SERVICES. Enter into leases for a term not exceeding 20 years for acquisition of cable television or data processing services and facilities for educational purposes.

(23) BONDS FOR OFFICERS AND EMPLOYEES. Require an officer or employee of the board to give security in such form and amount as the board determines, and may require at any time additional bonds and sureties of any officer or employee.

(24) CONTRACTS WITH OTHER GOVERNMENTAL UNITS. Participate and enter into contracts with school boards and other governmental units as provided under s. 120.25.

(25) LEASE SCHOOL PROPERTY. In addition to any other authority, lease school sites, buildings, and equipment not needed for school purposes to any person for any lawful use at a reasonable rental if approved at an annual or special school district meeting.

(26) CONTRACTS WITH PRIVATE EDUCATION SERVICES. Upon the approval of the state superintendent, contract with private education services for pupils who need concurrent education and treatment services, the educational portion of which is not available in the schools in which the pupils are enrolled. Private education services provided under this subsection may not include religious or sectarian teachings or instruction.

(26m) CONTRACTS WITH COUNTY CHILDREN WITH DISABILITIES EDUCATION BOARDS. Contract with a county children with disabilities education board for special education services. The costs of such services shall be included in the school district's shared cost under s. 121.07 (6). This subsection applies beginning on the effective date of a resolution adopted under s. 115.817 (9) (c).

(26r) CONTRACTS FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES SERVICES. Contract with the department of health and family services for services under s. 46.043.

(27) TRANSPORTATION OF PERSONS WHO ARE NOT PUPILS. (a) Subject to par. (b), the school board may use or allow the use of school buses owned and operated by the school district to transport persons who are not pupils of the school district. School buses may be used by persons who are not pupils of the school dis-

trict during school hours if such use does not interfere with the transportation of pupils of the school district. The school board shall charge a fee for use of the school buses under this subsection. The fee shall be an amount equal to the actual cost of transportation under this subsection, including but not limited to costs for depreciation, maintenance, insurance, fuel and compensation of vehicle operators. If the school board denies a written request for use of the school buses, the school board shall provide the requester a written statement of the basis for the denial within 14 days after the denial.

(b) No school bus may be used to provide transportation under this subsection unless the vehicle is insured by a policy providing property damage coverage and bodily injury liability coverage for such transportation in the amounts specified in s. 121.53 (1).

(27m) TRANSPORTATION OF INDIGENT PUPILS. Provide transportation to and from school for indigent pupils who reside in the school district and who are not required to be transported under s. 121.54. In this subsection, “indigent pupils” means pupils who are eligible for free lunches or reduced-price lunches under 42 USC 1758 or who are members of a Wisconsin works group, as defined in s. 49.141 (1) (s), with a member who is participating in Wisconsin works under s. 49.147 (3) to (5) or any combination thereof, as determined by the school board. If a school board determines to provide transportation under this subsection, there shall be reasonable uniformity in the transportation furnished such pupils whether they attend public or private schools. The cost of transporting pupils under this subsection may not be included in the school district’s shared cost under s. 121.07 (6) (a).

(28) RECORDS CUSTODIAN. On behalf of any school district authority as defined in s. 19.32 (1), including the school board, school district officers and any subunit of the school board or school district, designate one or more persons to be legal custodians of records.

(29) BORROWING. Borrow money and issue municipal obligations, as provided in chs. 24 and 67.

(31) SCHOOL CROSSING GUARDS. Upon the adoption of a resolution to do so and approval of the resolution by the governing bodies of all of the cities, villages and towns located in whole or in part within the school district, provide for the appointment of adult school crossing guards for the protection of persons who are crossing a highway in the vicinity of a school. The school crossing guards shall wear insignia or uniforms which designate them as school crossing guards and shall be equipped with signals or signs to direct traffic to stop at school crossings.

(32) SCHOOL BOARD ORIENTATION. Provide for the orientation and continuing education of school board members and persons who have been elected to the school board but have not yet taken office in the general duties and responsibilities of the school board and the school district, and pay for the actual and necessary expenses incurred.

(33) SPENDING AUTHORITY. During the period between July 1 and the final adoption of a budget by the school board after the budget hearing under s. 65.90, spend money as needed to meet the immediate expenses of operating and maintaining the public instruction in the school district.

(34) STREET TRADE AND CHILD LABOR PERMIT OFFICER. Act as permit officer if designated under ss. 103.245 (1) (a) and 103.695 (1) (a).

(35) PRESENCE IN SCHOOL BUILDINGS. (a) A school board may adopt rules applicable to persons who enter or remain in a building operated by the school board, including requirements that such persons identify themselves and sign in when entering or remaining in the building or any specified portion of the building and designating time periods during which such persons may enter or remain in the building or any portion of the building.

(b) 1. Except as provided in subd. 2., any person entering or remaining in a building or portion of a building in violation of the school board’s rules is subject to a forfeiture of not more than \$1,000. Any person entering or remaining in a building or portion

of a building in violation of the school board’s rules under circumstances tending to create or provoke a breach of the peace may be fined not more than \$10,000 or imprisoned for not more than 90 days or both.

2. Subdivision 1. does not apply to pupils, parents of pupils, school district employees or officials or agents of a certified or recognized representative of school district employees who are included in a collective bargaining unit.

(36) PREKINDERGARTEN AND KINDERGARTEN PROGRAM AGREEMENTS. Enter into an agreement with a licensed public or private nonsectarian day care center to lease space for prekindergarten or kindergarten programs offered by the school district or to place school district employees in day care centers to provide instruction in prekindergarten or kindergarten programs offered by the school district.

(37) AWARDED HIGH SCHOOL DIPLOMAS TO VETERANS. (a) Notwithstanding s. 118.33 (1), award a high school diploma to a person who meets all of the following requirements:

1. Is at least 65 years old.
2. Attended high school in the school district or attended high school in this state and resides in the school district.
3. Left high school before receiving a high school diploma to join the U.S. armed forces during a war period under s. 45.01 (13).
4. Served on active duty under honorable conditions in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces.

(b) Award a high school diploma to a person who received a high school equivalency diploma under s. 115.29 (4) after serving on active duty under honorable conditions if the person meets the conditions of par. (a) 1. to 3.

(c) Award, upon request, a high school diploma to a person who has died, but who, before dying, satisfied the conditions of par. (a) 2. to 4.

(37m) SINGLE-SEX SCHOOLS AND COURSES. Operate one or more schools that enroll only one sex or provide one or more courses that enroll only one sex if the school board makes available to the opposite sex, under the same policies and criteria of admission, schools or courses that are comparable to each such school or course.

NOTE: Sub. (37m) was created as sub. (38) by 2005 Wis. Act 346 and renumbered by the revisor under s. 13.93 (1) (b).

(38) HUNTING IN SCHOOL FORESTS. Allow hunting in its school forest, as defined in s. 26.39 (1) (a), except that the board may not allow hunting for a wild animal when there is not an open season for that animal on land adjacent to the school forest. This subsection does not affect the authority of the department of natural resources to remove a wild animal under s. 29.885 (2) (a).

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186; 2001 a. 38, 98, 103, 105; 2003 a. 254; 2005 a. 22, 194, 290, 346; 2005 a. 443 s. 265; s. 13.93 (1) (b).

A school board may issue a subpoena to compel the attendance of a witness at an expulsion hearing. Expulsion may be partially based on hearsay statements by school staff. Due process is discussed. *Racine Unified School District v. Thompson*, 107 Wis. 2d 657, 321 N.W.2d 334 (Ct. App. 1982).

Neither sub. (1) (c) or (e) expressly or impliedly authorizes the state superintendent to review a challenged suspension when the superintendent reviews an expulsion decision under those provisions. *Madison Metropolitan School District v. DPI*, 199 Wis. 2d 1, 543 N.W.2d 843 (Ct. App. 1995), 94-0199.

Section 66.185 [now sub. (5)] does not prohibit providing health insurance benefits to persons not listed in the statute if authority is granted by other statutes. Sections 120.12, 120.13, and 120.44, broadly construed as required by s. 118.001, grant broad powers, including that of providing insurance to persons not listed in this section. *Pritchard v. Madison Metropolitan School District*, 2001 WI App 62, 242 Wis. 2d 301, 625 N.W.2d 613, 00-0848.

The section (intro) expresses the legislature’s intent to give school boards broader powers and wide discretion in exercising its powers, but it does not mean that, when the legislature had previously authorized a board to take particular actions using specified procedures, the board has the authority to follow other procedures in taking those particular actions. While school boards have powers beyond those enumerated in subs. (1) to (37), they do not have the power to violate the provisions of subs. (1) to (37). *Madison Metropolitan School District v. Burmaster*, 2006 WI App 17, 288 Wis. 2d 771, 709 N.W.2d 73, 05-0875.

The only reasonable construction of sub. (1) (e) 3. is that, if a school district elects to have a hearing officer conduct an expulsion hearing, the district must comply with the procedures specified in that paragraph. Because sub. (1) (e) 3. provides for review by the board of a hearing officer's decision only if the officer has ordered expulsion, the board does not have the authority to review and reverse the hearing officer's decision not to order an expulsion. *Madison Metropolitan School District v. Burmaster*, 2006 WI App 17, 288 Wis. 2d 771, 709 N.W.2d 73, 05–0875.

The duties and powers under ss. 118.001, 120.12 (14), and 120.13 extend to individual teachers as employees of the school board. It would be absurd to require teachers to obtain special permission from the school board with respect to every detail of their teaching. Summer homework, particularly for an honors class for which students receive additional credit, fits comfortably within the range of what is reasonable and is not unconstitutional. *Larson v. Burmaster*, 2006 WI App 142, 05–1433.

Because of a lack of statutory authority, speech therapists may not supply services to students attending therapy sessions in parochial school buildings. 63 Atty. Gen. 8.

Students may have bus riding privileges suspended without being suspended or expelled from school. However, both public and private school students must be afforded due process under sub. (1) before such a suspension can take place. 63 Atty. Gen. 526.

School boards have authority to enforce policies that mandate the manner, conditions, and content of police interviews with students on school premises during school hours. 81 Atty. Gen. 126.

Democracy in the classroom: due process and school discipline. 58 MLR 705.

School Expulsions: Not all are Equal. Julien & Engel. Wis. Law. Oct. 2001.

120.135 Capital improvement fund. (1) By July 1, 2000, by a two-thirds vote of the members elect, a school board may adopt a resolution creating a capital improvement fund for the purpose of financing the cost of acquiring and improving sites, constructing school facilities and major maintenance of or remodeling, renovating and improving school facilities if all of the following are true:

(a) A tax incremental district that is located in whole or in part in the school district is terminated before the maximum number of years that the tax incremental district would have existed under s. 66.1105 (7) (am) or (ar).

(b) The value increment of the tax incremental district exceeds \$300,000,000.

(2) In each year in which the school board adopts a resolution by a two-thirds vote of the members elect expressing its intention to do so until the year after the year in which the tax incremental district would have been required to terminate under s. 66.1105 (7) (am) or (ar), the school board may deposit into the capital improvement fund the percentage, not to exceed 100%, specified in the resolution of the school district's portion of the positive tax increment of the tax incremental district in that year, as determined by the department of revenue under s. 66.1105.

(3) The school board shall use the balance of the school district's portion of the positive tax increment of the tax incremental district to reduce the levy that otherwise would be imposed.

(4) (a) Money in the capital improvement fund may not be used for any purpose or be transferred to any other fund without the approval of a majority of the electors of the school district voting on the question at a referendum. If a referendum is adopted authorizing the use of moneys in the fund, the legislative audit bureau shall conduct an audit to determine whether the moneys have been used only for the purposes specified in sub. (1).

(b) The school board may not deposit into the capital improvement fund any amount other than the percentage specified under sub. (2).

(5) The school board shall submit a report by January 1 of each odd-numbered year to the governor and the joint committee on finance describing the use of the moneys deposited into the fund under sub. (1) and the effects of that use.

History: 1999 a. 17; 2001 a. 30.

120.14 Audit of school district accounts. In a common or union high school district:

(1) At the close of each fiscal year, the school board of each school district shall employ a licensed accountant to audit the school district accounts and certify the audit. The audit shall include information concerning the school district's self-insurance plan under s. 120.13 (2) (b), as specified by the commissioner of insurance. If required by the state superintendent under s. 115.28 (18), the audit shall include an audit of the number of

pupils reported for membership purposes under s. 121.004 (5). The cost of the audit shall be paid from school district funds. Annually by September 15, the school district clerk shall file a financial audit statement with the state superintendent.

(3) The annual meeting may authorize and direct an audit of the school district accounts by a certified public accountant licensed or certified under ch. 442.

(4) The department shall establish by rule a standard contract and minimum standards for audits performed under this section.

History: 1971 c. 108 ss. 5, 6; 1971 c. 125 s. 523; 1975 c. 224; 1977 c. 29; 1983 a. 27; 1983 a. 189 s. 329 (17m); 1985 a. 29; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27; 2001 a. 16.

Cross Reference: See also s. PI 4.03, Wis. adm. code.

120.15 School district president; duties. The school district president of a common or union high school district shall:

(1) Countersign all checks, share drafts or other drafts for disbursement of school district moneys.

(2) Defend on behalf of the school district all actions brought against the school district.

(3) Prosecute, when authorized by an annual meeting or the school board, actions brought by the school district.

(4) Prosecute an action for the recovery of any forfeiture incurred under chs. 115 to 121 in which the school district is interested. If the school district president has incurred the forfeiture, such action shall be prosecuted by the school district treasurer. Of the net sum recovered under such action, one-half shall be paid into the school district treasury and one-half to the county treasury for the benefit of the school fund.

(5) Act as chairperson of school board meetings and see that minutes of the meetings are properly recorded, approved and signed. In the absence of the president, the vice president or, in the case of a 3-member board, another school board member selected by the school board, shall act as chairperson of school board meetings.

History: 1979 c. 89, 173; 1981 c. 20; 1983 a. 368.

120.16 School district treasurer; duties. The school district treasurer of a common or union high school district shall:

(2) Apply for, receive and sue for all money appropriated to or collected for the school district and disburse the same in accordance with this subsection and s. 66.0607. Disbursements from the school district treasury shall be made by the school district treasurer upon the written order of the school district clerk after proper vouchers have been filed with the school district clerk. Such disbursements shall be by order check, share draft or other draft and no order check, share draft or other draft is valid nor may it be released to the payee unless signed by the school district clerk and school district treasurer and countersigned by the school district president. In a school district having 5 or more school board members, another school board member may countersign such order checks, share draft or other draft in lieu of the school district president. No order check, share draft or other draft may be drawn for the payment of which money has not been appropriated according to law. The school district treasurer may receive money raised in extracurricular activities. The school board may by resolution authorize the use of facsimile signatures as provided in s. 66.0607 (3). A certified copy of the resolution shall be filed with the school district clerk and each public depository concerned.

(3) Enter in the treasurer's account books all money received and disbursed by the treasurer, specifying the source from which it was received, the person to whom it was paid and the object for which it was paid.

(4) Present to the annual meeting a written statement of all money received and disbursed by the treasurer during the preceding year.

(5) Immediately upon receipt, deposit the funds of the school district in the name of the school district in a public depository deposit designated by the school board under s. 120.12 (7). Failure to comply with this subsection shall be prima facie grounds for removal from office. When such funds are so deposited, the

school district treasurer and his or her bonders are not liable for losses as defined in s. 34.01 (2). The interest derived from such funds shall be paid into the school district treasury.

(6) Withdraw funds of the school district deposited in savings or time deposits by written transfer order in accordance with this subsection and s. 66.0607. Written transfer orders may be executed only for the purpose of transferring deposits to an authorized deposit of the school district in the same or another authorized public depository. The transfer shall be made directly by the public depository from which the withdrawal is made. No transfer order is valid unless signed by the school district clerk and school district treasurer and countersigned by the school district president. In a school district having 5 or more school board members, another school board member may countersign transfer orders in lieu of the school district president. The school board may, by resolution, authorize the use of facsimile signatures as provided in s. 66.0607 (3). A certified copy of the resolution shall be filed with the school district clerk and each public depository concerned.

History: 1973 c. 90; 1977 c. 29, 211; 1979 c. 318; 1981 c. 20; 1983 a. 189 s. 329 (21); 1983 a. 368, 1993 a. 492; 1999 a. 150 s. 672.

120.17 School district clerk; duties. The school district clerk of a common or union high school district shall:

(1) Report the name and post-office address of each officer of the school district, within 10 days after the election or appointment of the officer, to the clerk and treasurer of each municipality having territory within the school district.

(2) Act as clerk and record the proceedings of annual and special meetings.

(3) Enter in the record book provided by the school board the minutes of its meetings, orders, resolutions and other proceedings.

(4) Enter in the record book copies of all the school district clerk's reports to the municipal clerks and the certificate of the proceedings of a meeting returned by a temporary school district clerk.

(5) Draw orders on the school district treasurer as directed by an annual or special meeting or the school board and record all orders drawn on the school district treasurer.

(7) Furnish each teacher with a copy of the contract between the teacher and the school board.

(8) (a) Annually on or before November 6, deliver to the clerk of each municipality having territory within the school district a certified statement showing that proportion of the amount of taxes voted and not before reported, and that proportion of the amount of tax to be collected in such year, if any, for the annual payment of any loan to be assessed on that part of the school district territory lying within the municipality. Such proportion shall be determined from the full values certified to the school district clerk under s. 121.06 (2).

(bm) If the equalized valuation of that part of a municipality lying within a school district is reduced due to the removal of property from the tax roll because the imposition of the property tax on that property is found unconstitutional, the school district clerk shall notify the supervisor of equalization. The supervisor of equalization shall reduce the equalized valuation by the full value of the property so removed and certify the resulting equalized valuation to the state superintendent and the school district clerk for use in computing the tax levy certifications under this subsection. Corrections may be made under this paragraph only for the valuations used by the department for the last 2 school years.

(c) If an order of school district reorganization under ch. 117 is effective after January 1 and before July 1 of any year, the school district clerks of the school districts affected shall prepare the statement under par. (a) based on the equalized valuation of the school districts as altered by the order and related to the equalized valuation of the year upon which the tax levy is required to be made. If the school district clerk has filed the statement prior to the effective date of the order, the clerk shall file a corrected certification which shall be accepted by the clerks of the municipalities

affected and acted upon by them as provided in par. (a). Failure of the school district clerk to file a corrected certification of the levy based on the equalized valuation of each of the municipalities or portions thereof within the school district shall be corrected by the school district clerk by an appropriate adjustment in the levy certified in the following year.

(9) Within 5 days after receipt of notification from the school board of the name of a new school, notify the proper postmaster of the name and location of the school and the number of the school district. If a school is not located on a mail route, the school district clerk shall furnish the postmaster with the names of persons to whom the mail for the school may be delivered. The school board may rent a lock box at school district expense for each school not on a mail route. The school district clerk shall notify the postmaster of school vacations and shall direct what disposition shall be made of the school mail during vacations.

(10) Have authority to administer the oath of office to school board members.

History: 1971 c. 56; 1973 c. 61, 90; 1977 c. 29 s. 1647 (4); 1977 c. 418; 1983 a. 275 s. 15 (3); 1983 a. 339, 405; 1985 a. 225; 1989 a. 114; 1993 a. 16, 492; 1995 a. 27; 1997 a. 27.

Sub. (8) (b) applies only when equalized valuation decreases. 60 Atty. Gen. 251.

120.18 Annual school district report. (1) Annually at such time as the department prescribes but after the end of the school year and no later than September 1, the school district clerk of a common or union high school district shall file a verified annual school district report with the department, on forms supplied by the department. The school district clerk shall send a copy of the annual school district report to the school district administrator and shall notify the person in charge of each school in the school district that the reports are on file in the school district clerk's office. Accounting and financial information provided by the school district in the annual report shall be prepared from the system of accounts prescribed by the department. If the school district clerk neglects to make the annual report, the clerk shall be liable to the school district for the whole amount of money lost by the school district because of such neglect. The annual report shall contain:

(a) The school count, showing the numbers and ages of persons who are at least 4 years old but not yet 14 years old and who reside in a school district operating only elementary grades, showing the number and ages of persons between the ages of 14 and 20 residing in a union high school district and showing the number and ages of persons between the ages of 4 and 20 residing in any other school district. Children cared for at a charitable or penal institution of this state may not be included in the report. The school district clerk may employ a competent person to take the school count. The count may be determined by using any of the following methods:

1. Conducting a school census on the preceding June 30.

2. Adding the number of persons under this paragraph who were residents of the school district and were enrolled in the school district on the 3rd Friday of September of the previous school year; plus the number of persons under this paragraph who were residents of the school district and who were enrolled in private schools, home-based private educational programs or other school districts on the 3rd Friday of September of the previous school year; plus the number or an estimate of the number of those persons under this paragraph who were residents of the school district and not enrolled in the school district, private schools, home-based private educational programs or other school districts on the 3rd Friday of September of the previous school year.

(b) The number of children between the ages of 4 and 20 taught in the schools of the school district during the school year.

(c) The number of children attending the schools of the school district during the school year under the age of 4 and over the age of 20 years.

(d) The number of school days taught, including holidays, and the number of hours of direct pupil instruction provided in each school, by teachers legally qualified to teach.

(e) The names of all teachers employed by the school district during the school year; the number of days taught by each, including holidays; the monthly salary paid to each; and the time allowed each teacher for attendance at an educational convention for which no wages were deducted.

(f) The amount of money received during the school year, designating separately the amount received from the school fund income, from taxes levied by the county board, from taxes voted by the school district and from all other sources and the manner in which such money was expended, showing separately the expenditure of school money received from the state.

(g) The amount and character of school district debts.

(gm) Payroll and related benefit costs for all school district employees in the previous school year. Costs for represented employees shall be based upon the costs of any collective bargaining agreements covering such employees for the previous school year. If, as of the time specified by the department for filing the report, the school district has not entered into a collective bargaining agreement for any portion of the previous school year with the recognized or certified representative of any of its employees and the school district and the representative have been required to submit final offers under s. 111.70 (4) (cm) 6., increased costs limited to the lower of the school district's offer or the representative's offer shall be reflected in the report. The school district shall amend the annual report to reflect any change in such costs as a result of any award or settlement under s. 111.70 (4) (cm) 6. between the date of filing the report and October 1. Any such amendment shall be concurred in by the certified public accountant licensed or certified under ch. 442 certifying the school district audit.

(i) A description of the educational technology used by the school district, including the uses made of the technology, the cost of the technology, and the number of persons using or served by the technology. In this paragraph, "educational technology" has the meaning given in s. 16.99 (3).

(s) Such other facts and statistics in relation to the schools, public or private, in the school district as the department requires.

(3) The state superintendent may promulgate rules to implement and administer this section.

History: 1975 c. 189, 224; 1989 a. 31; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27, 87; 2001 a. 16; 2003 a. 33; 2005 a. 252.

120.21 School board contracts for courses. (1) The school board of a union high school district or a common school district operating elementary and high school grades may contract:

(a) With the University of Wisconsin—Extension for extension courses for pupils enrolled in high school.

(b) With flight operator schools, approved by the U.S. civil aeronautics administration, for courses in flight instruction approved by the state superintendent.

(2) The cost of such contracts shall be paid out of the school district general fund.

History: 1985 a. 29; 1995 a. 27 s. 9145 (1); 1997 a. 27; 2001 a. 103.

120.25 School board cooperation in acquiring school facilities. (1) Two or more school boards may by written contract executed by all participants to the contract, own, construct, lease or otherwise acquire school facilities including real estate located within or outside the boundaries of any participating school district.

(2) School boards entering into a contract under this section may, without limitation because of enumeration:

(a) Provide for acquisition, construction, operation and administration of a facility, and establish the functions, projects and services to be provided in the facility, including, without limitation because of enumeration, proration of all expenses involved, operational and fiscal management including deposit and disbursement of funds appropriated, designation of the municipal employer for purposes of compliance with s. 111.70, teacher

retirement, worker's compensation and unemployment insurance.

(b) Purchase real estate and personal property, including a fractional or other interest in the real estate and personal property and enter into leases for sites, building and equipment for a term not exceeding 50 years.

(c) Issue municipal obligations subject to the procedures and limitations of ch. 67.

(d) Provide the terms and conditions for accepting additional school districts as participants in the plan and for withdrawal from or termination of the contract including apportionment of assets and liabilities.

(3) A contract entered into under this section shall at all times be limited to a period of 50 years but may, by mutual written consent of all participants, be modified or extended beyond the initial term.

(4) A contract or any extension of the contract of over 5 years duration which includes a common or union high school district participant shall be approved by the annual or special school district meeting.

(5) Each school board shall adopt and maintain a written policy on contracting under this section.

(6) School boards entering into a contract under this section shall designate for each employee providing services under the contract either a school district entering into the contract or a cooperative educational service agency as the employer for purposes of compliance with s. 111.70, teacher's retirement, worker's compensation and unemployment insurance.

History: 1999 a. 150 ss. 357, 632; 2005 a. 220.

SUBCHAPTER II

UNIFIED SCHOOL DISTRICTS

120.40 Applicability. This subchapter applies to unified school districts.

History: 1985 a. 225 s. 80; Stats. 1985 s. 120.40.

120.41 Composition of school board. (1) A school board of a unified school district may have 5, 7 or 9 members.

(2) The number of school board members may be changed in accordance with s. 120.02 (1). A plan of apportionment of school board members may be adopted in accordance with s. 120.02 (2).

History: 1981 c. 20; 1985 a. 225 s. 84; Stats. 1985 s. 120.41.

120.42 Election of school board members. (1) (a) Except as provided in pars. (b) and (c), school board members in a unified school district shall be electors of the school district and shall be elected at large, at large to numbered seats or at large to an apportioned election district area by a plurality vote of the electors of the school district. School board members in a unified school district shall be elected under s. 120.06 at the spring election. All candidates for school board seats shall file a declaration of candidacy as provided in s. 120.06 (6) (b).

(b) School board members in a unified school district that encompasses a city with a population greater than 150,000 but less than 500,000 shall be elected at large to numbered seats.

(c) School board members elected to a school board in an election under s. 117.22 (2) (bm) shall reside in the territory of the school district created by the reorganization.

(2) The regular terms of school board members shall be for 3 years. School board members elected for regular or unexpired terms shall take office, if they have taken and filed the official oath, on the 4th Monday in April. Elections to fill unexpired terms shall be held simultaneously with the elections for regular terms. In school districts electing members of the school board at large, the regular terms shall be filled by the appropriate number of candidates receiving the highest number of votes and the unexpired terms shall be filled by the appropriate number of candidates receiving the next highest number of votes.

(3) All vacancies shall be filled by appointment, in accordance with s. 17.26 (1).

(4) If a school district votes, pursuant to s. 120.02 (4) to adopt a plan requiring school board members to be elected to numbered seats, the school board shall, at its first meeting after the adoption of such plan, assign a number to each seat on the school board. Thereafter candidates for school board membership shall file as candidates for a particular numbered seat on the school board.

History: 1975 c. 138, 200; 1977 c. 427; 1981 c. 20; 1983 a. 484; 1985 a. 225 ss. 85 to 87; Stats. 1985 s. 120.42; 1997 a. 286.

120.43 School board meetings. (1) Annually, on or within 30 days after the 4th Monday in April, the school board shall elect a school district president, vice president, clerk and treasurer from among its members and a school board secretary who need not be a member of the school board.

(2) The school board shall meet at least once each month and at other times upon the call of the school district president or upon the filing of a request with the school district clerk signed by a majority of the school board members.

(3) Each school board member may be paid an annual salary or an amount fixed by the school board for each school board meeting the member actually attends.

(4) Proceedings of the school board shall be published in accordance with s. 120.11 (4).

History: 1977 c. 418; 1979 c. 301; 1983 a. 27 s. 2202 (42); 1985 a. 225 ss. 89 to 91; Stats. 1985 s. 120.43.

120.44 School board powers and duties. (1) A unified school district is a body corporate with the power to sue and be sued, to levy and collect taxes, to acquire, hold and dispose of property and to do all other things reasonable for the performance of its functions in operating a system of public education.

(2) The public schools of a unified school district shall be under the management, control and supervision of a school board. The school board shall have the powers and duties of the school board and annual meeting in a common school district. The officers of a unified school district have the powers and duties of the officers of a common school district. No annual meeting shall be held in a unified school district. The school board shall not, in the name of the school district, issue bonds or incur other indebtedness without approval of the electors of the school district in any instance where the school board of a common school district is not authorized to do so.

History: 1981 c. 20; 1981 c. 340 s. 8; 1983 a. 339; 1985 a. 225 ss. 83, 92, 93; Stats. 1985 s. 120.44; 1993 a. 437; 1995 a. 27.

A school district did not incur indebtedness by entering into a lease–purchase agreement for a new school when the district, by electing not to appropriate funds for the following fiscal year’s rental payment, had the option to terminate the agreement with no future payment obligation. *Deick v. Unified School District of Antigo*, 165 Wis. 2d 458, 477 N.W.2d 613 (1991).

Section 66.185 [now sub. (5)] does not prohibit providing health insurance benefits to persons not listed in the statute if authority is granted by other statutes. Sections 120.12, 120.13, and 120.44, broadly construed as required by s. 118.001, grant broad powers, including that of providing insurance to persons not listed in this section. *Pritchard v. Madison Metropolitan School District*, 2001 WI App 62, 242 Wis. 2d 301, 625 N.W.2d 613, 00–0848.

School boards have authority to enforce policies that mandate the manner, conditions, and content of police interviews with students on school premises during school hours. 81 Atty. Gen. 126.